

**REMARKS**

Reconsideration and allowance of the subject application are respectfully requested. By this Amendment, Applicant has added new claims 7-10 in order to further define the claimed invention. Thus, claims 1-10 are now pending in the application. In response to the Office Action (Paper No. 10), Applicant respectfully submits that the pending claims define patentable subject matter.

By this Amendment, Applicant has rewritten claims 3 and 4 (which were objected to as being dependent upon a rejected base claim) in independent form. Accordingly, the Examiner is requested to allow claims 2 and 4, as well as dependent claims 7-10.

**I. Preliminary Matters**

The Abstract is objected to because the Examiner maintains that the abstract should not contain legal phraseology such as the term "means". By this Amendment, Applicant has amended the abstract. Accordingly, the Examiner is requested to remove the objection to the abstract.

**II. Prior Art Rejection**

Claims 1, 3, 5 and 6 are rejected under 35 U.S.C. § 102(e) as being anticipated Popovic (USP 6,393,047). With regards to independent claims 1 and 3, the Examiner maintains that Popovic discloses all of the features of the claimed invention including a "a device enabling different spreading factors with a common spreading code, or scrambling with a code of length  $Q_{MAX}$ , which is a multiple of any of the spreading factors." In particular, the Examiner cites

Figure 3, column 3, lines 1-21 and column 6, lines 1-15 and 25-40 for disclosing spreading codes whose length may be expressed as an integer multiple of each spreading factor. Further, the Examiner again appears to be construing Popovic's use of the term "spreading code" as being interchangeable with (i.e., equivalent to) the term "scrambling code" because of Popovic's statement (column 1, lines 19-21) that "[t]he spreading signal is usually called a spreading or scrambling code or sequence."

Applicant respectfully submits claims 1, 3, 5 and 6 would not have been anticipated by or rendered obvious in view of the cited reference. In particular, Popovic's statement at column 1, lines 19-21 simply means that scrambling is not combined with spreading in Popovic's device. Rather, "scrambling" is envisaged alone in Popovic, and then, in itself, having a function of spreading. Moreover, Popovic does not enable different spreading factors while preserving a common scrambling code and does not even disclose the use of scrambling together with spreading.

Independent claims 1 and 3 are directed to "[a] device enabling different spreading factors while preserving a common scrambling code for transmission in a code division multiple access cellular mobile radio system." Claim 1 requires "scrambling means for applying a scrambling code of length  $Q_{MAX}$  which is a multiple of said different spreading factors, to blocks of  $Q_{MAX}$  basic symbols obtained by spreading with any of said spreading factors." Claim 3 requires "descrambling means for applying a scrambling code of length  $Q_{MAX}$  which is a multiple of said different spreading factors, to blocks of  $Q_{MAX}$  basic symbols obtained by spreading with any of said spreading factors."

Accordingly, Applicant respectfully submits that it is quite clear that Popovic does not teach or suggest “enabling different spreading factors while preserving a common scrambling code”. Moreover, Popovic does not include any element that is comparable to the “scrambling means” defined by claim 1, and the “means for grouping” and the “means for scrambling” defined in claim 3. It is well settled that 35 U.S.C. § 112, sixth paragraph, requires that the prior art element perform the *identical function* specified in the means plus function limitation in the claim, and the prior art element’s structure must be *the same as or equivalent to the structure* (disclosed in the specification) corresponding to the claimed means. In this case, Applicant respectfully submits Popovic’s constituent elements do not perform the identical function or have the same as or equivalent to the structure set forth in these means limitations. Further, the rejection grounds have not even attempted to point out how Popovic’s constituent elements meet the requirements of § 112, sixth paragraph.

Accordingly, Applicant respectfully submits that claims 1, 3, 5 and 6 should be allowable because the cited reference does not teach or suggest all of the features of the claimed invention.

Lastly, in order to improve clarity, Applicant has amended claim 1 to recite the spreading means and claim 3 to recite the desreading means.

### **III. Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

AMENDMENT UNDER 37 C.F.R. § 1.111  
U.S. Patent Application No. 09/291,748

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.


Respectfully submitted,

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**23373**

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